

REMARKS

An excess claim fee payment letter is submitted herewith for five (5) excess claims.

Claims 1-37 are all the claims presently pending in the application. Claims 1, 3-14, 16-22, 24-29 and 32 have been editorially amended and claims 33-37 have been added to more particularly define the invention.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Applicant gratefully acknowledges that claims 12-14, 16, 20, 24, 28, 30 and 31 would be allowable if rewritten in independent form. However, Applicant respectfully submits that all of the claims are allowable.

Claims 1, 2, and 4 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Ueda et al. (JP No. 2000030280). Claims 1-6, 15, 17-19, 23, and 25-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hohn et al. (U.S. Patent No. 6,066,861) in view of Ueda et al. Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ueda et al. in view of Hohn et al. Claims 1, 3, 4, and 7-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Odaki et al. (U.S. Patent No. 6,521,915) in view of Ueda et al. Claims 1, 3, 4, 29, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shimizu et al. (U.S. Patent No. 5,998,925) in view of Ueda et al. Claims 1, 4, 21, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mueller et al. (U.S. Patent No. 6,417,019) in view of Ueda et al.

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

The claimed invention (as defined, for example, in claim 1) is directed to a light-emitting unit which includes a light-emitting device for emitting light with a wavelength range of from 360 nm to 550 nm, and a fluorescent material including Ca-Al-Si-O-N oxynitride activated with Eu^{2+} . Further, at least a part of the light emitted from the light-emitting device is subjected to wavelength conversion by the fluorescent material.

Importantly, the claimed invention, includes a fluorescent material including Ca-Al-Si-O-N oxynitride activated with Eu²⁺. This feature allows the claimed invention to provide a light-emitting unit which is inexpensive, emits a high-quality light (e.g., white light) and avoids the color-mixing problems of the conventional light-emitting units (Application at page 4, line 8-page 5, line 12).

II. THE PRIOR ART REJECTIONS

The Examiner alleges that Ueda teaches the claimed invention of claims 1, 2 and 4. The Applicants submit that Ueda does not teach or suggest each and every element of the claimed invention.

In addition, the Examiner alleges that Ueda would have been combined with Hohn to form the claimed invention of claims 1-6, 15, 17-19, 23 and 25-27, with Odaki to form the claimed invention of claims 1, 3, 4 and 7-11, with Shimizu to form the claimed invention of claims 1, 3-4, 29 and 32, and with Mueller to form the claimed invention of claims 1, 4, 21 and 22.

The Applicants submit that Ueda is directed to a different subject matter than these references and that the Examiner cannot show any motivation or suggestion for combining Ueda with these references as alleged by the Examiner. Therefore, Ueda would not have been combined with these references as alleged by the Examiner. Moreover, even if combined, the combination would not teach or suggest the novel features of the claimed invention.

In addition, Applicant points out that the Ueda reference (JP02001214162A), has a publication date of August 7, 2001 which is later than the priority date (e.g., August 28, 2000) of the present Application. Applicant further notes that the Mueller and Odaki references have U. S. filing dates which are later than the priority date of the present Application.

Therefore, Applicant respectfully submits that the Ueda, Mueller and Odaki references may not be relied upon by the Examiner as prior art against the present Application. Submitted herewith is a verified translation of Japanese Patent Application No. 2000-258090, which is the priority document in this case.

Therefore, since the rejections made by the Examiner are based on the Ueda reference, or a combination of the Ueda reference with another reference, Applicant submits that the Examiner should withdraw all of these rejections.

Therefore, Applicant submits that the cited references, separately or in combination, do not teach or suggest each and every element and feature of the claimed invention. Moreover, the priority date for the present Application pre-dates the Ueda, Odaki and Mueller references. Therefore, the Examiner is respectfully requested to withdraw this rejection.

III. FORMAL MATTERS AND CONCLUSION

Attached hereto is a replacement sheet for Figure 1 which replaces reference "16" with "19" to address the Examiner's objection thereto.

In view of the foregoing, Applicant submits that claims 1-37, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

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